THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.12537 of 2003

ORDER:

This writ petition is filed questioning the auction notice dated 28.5.2003 issued by the first respondent.

It appears, the petitioner is a member of third respondent society and obtained certain loans from it. Since he did not pay the loan instalments, third respondent obtained Certificate under Section 71 of the A.P. Cooperative Societies Act, 1964 (for short 'the Act') and pursuant to the said Certificate, the impugned notice has been issued for auctioning of the schedule lands. It seems, the petitioner filed objections stating that certain portions of the lands are covered by the proceedings under the A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 and such lands cannot be sold in view of prohibition under Section 17 of the said Act. Apart from that, for the last four years, there was a crop failure, and he is not able to realize any income from the lands and even the Government declared the lands of Gandepalli and N.T.Rajapuram as drought prone areas.

The respondents filed counter affidavits separately asserting that insofar the lands which are the subject matter of enquiry under Land Reforms Act, have already been deleted from the auction notice and those lands, which are not covered are sought to be sold. As of now, palm oil trees are available and the crop is ready to cut. If at this stage, the lands are not allowed to be auctioned, nothing remains for the respondents to recover the amounts since this is the area, which is likely to be enundated by floods every year, and in the absence of crop, no body may come forward to particiate in the auction and purchase the lands.

Be that as it may, in view of the fact that against a Certificate

issued under Section 71 of the Act, the petitioner has got an effective alternative remedy by way of appeal under Section 76 of the Act. The petitioner is directed to file an appeal under Section 76 of the Act before the A.P. Cooperative Tribunal against the Certificate issued under Section 71 of the Act within a period of two weeks from the date of receipt of a copy of this order. On filing such appeal, the Tribunal shall entertain the same without raising any objection as to limitation and decide the matter on merits. However, till the consideration of stay application to be filed by the petitioner along with the appeal, the interim stay granted by this Court in W.P.M.P.No.15599 of 2003 dated 27.6.2003 shall continue.

Subject to the above observation and direction, the writ petition is accordingly disposed of. No order as to costs.

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C.V.RAMULU, J

Date: 23.8.2006

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THE HON'BLE SRI JUSTICE C.V.RAMULU

23.8.2006

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.12537 of 2003

Dated: 23rd August, 2006

Between:

Pasumarthi Perraju

.. Petitioner

and

The Deputy Registrar of Special Duty,
District Cooperative Central Bank,
Kakinada, East Godavari District & others.

.. Respondents